GOVERNMENT OF INDIA
CHEMICALS AND FERTILIZERS
LOK SABHA

UNSTARRED QUESTION NO:2759
ANSWERED ON:21.03.2005
REMOVAL OF TOXIC WASTE LYING IN AND AROUND UNION CARBIDE FACTORY
Gaikwad Shri Eknath Mahadeo;Hamza Shri T.K.

Will the Minister of CHEMICALS AND FERTILIZERS be pleased to state:

(a) whether the Union Government in consultation with the State Government of Madhya Pradesh has filed itsletter of No Objection on June 28, 2004 in the US District Court;

(b) if so, the details of the letter thereof;

(c) whether the Government has also issued any direction to M/s Union Carbide of India or its successor, the Dow Chemicals Company for providing fund for the victims and removal of toxic waste lying in and around the Union Carbide Factory, Bhopal;

(d) if so, the details thereof,and

(e) the response received for the said company in this matter?

Answer

THE MINISTER OF CHEMICALS AND FERTILIZERS AND MINISTER OF STEEL (SHRI RAM VILAS PASWAN):

(a) Yes, Sir.

(b) Details of letter of the `no objection` filed by the Consul General of India, New York in the US District Court of Southern District of New York, are given in the enclosed statement.

(c) No, Sir.

(d) and (e) Does not arise.

Statement

Consul General of India New York June 28, 2004 No. NYCG/161/1/2004 VIA HAND DELIVERY United States District Judge John F. Keenan United States District Court Southern District of New York 500 Pearl Street, New York, New York 100007-1312

Re: Bano et al. v. Union Carbide, 99 Civ. 11329 (JFK)

To the United States District Court:

On behalf of the Union of India and as its duly authorized consular representative in the United States of America, we submit this letter in the above-referenced matter to present the official position of the sovereign government of India with regard to environmental remediation of the land and premises formerly occupied by the Union Carbide plant in Bhopal, India. The Union of India submits that neither the Madhya Pradesh State government or its instrumentalities nor the Union of India has any objection to any such relief for environmental remediation of the former Union Carbide plant premises in Bhopal being ordered or directed by a competent court or tribunal of the United States. Further, the Union of India and the Madhya Pradesh State government and their respective instrumentalities will cooperate with any such relief as and when issued by the United States District Court. The Union of India will monitor and supervise such environmental remediation including decommissioning of plant and machinery, remediation/disposal of contaminated soil and appropriate disposal of toxic chemicals and wastes on the plant site by Union Carbide in order to ensure that it is under taken in compliance with the norms and parameters laid down by a specific organization of the Government of India, the Central Pollution Control Board, for that purpose.

Union Carbide will also be held responsible for any loss/ damages caused to life or property in the process of remediation and disposal. Pursuant to the `polluter pays` principle recognized by both the United States and India, Union Carbide should bear all of the financial burden and cost for the purpose of environmental clean-up and remediation. The Union of India and the State Government of Madhya Pradesh shall not bear any financial burden for this purpose.

Notwithstanding the foregoing, nothing in this official statement on behalf of the Union of India may be construed or read, by implication or otherwise, as an intention to submit either the Union of India or the Madhya Pradesh Government to the jurisdiction of the United States District Court as parties to this litigation. The Union of India and the State Government of Madhya Pradesh are

entitled to sovereign immunity under international law and do not waive those immunities by this submission.

In addition, nothing in this submission should be construed, by implication or otherwise, to convey any authority to plaintiffs in the above matter to assert or pursue claims on behalf of the Union of India or State Government of Madhya Pradesh. Nor shall the plaintiffs in the above-referenced matter be entitled, by virtue of this submission, to assert or pursue any claims against either the Union of India or the Madhya Pradesh Government in this litigation or before the U.S. District Courts.

Finally, it is the official position of the Union of India that the previous settlement of claims concerning the 1984 Bhopal Gas Disaster between Union Carbide and Union of India has no legal bearing on or relation whatsoever to the environmental contamination issues raised in the case at bar. Nothing in this submission should be construed, by implication or otherwise, as an intention to reopen or question the validity of that previous settlement.

Accordingly, the Union of India hereby formally urges the U.S. District Court to order such relief, as required by the U.S. Court of Appeals for the Second Circuit in this matter.

Respectfully submitted, Sd/- (Pramathesh Rath) Consul General of India Consulate General of India 3 East, 64th Street New York, New York 10021-7097